

REMARKS

Claims 1, 5, 7-9, 11, 12, 15, 17-19, 21, 23 and 25-33 remain pending in the application, with claims 1, 11, 29 and 33 being the independent claims. Reconsideration and further examination are respectfully requested.

In the Office Action, objection was made to the Specification as allegedly failing to provide proper antecedent basis for the term “digital feature-length theater-quality motion picture”. However, Applicants note that certain characteristics of a feature-length theater-quality production are in fact described in the Specification, e.g., at page 4 lines 11-15 and page 6 lines 9-13. Moreover, the terms “feature-length” and “theater-quality” are understood to those of ordinary skill in the art. For instance, the term “feature-length” would indicate a movie commonly having a duration of approximately 90 minutes. The term “theater-quality” means sufficient quality to be displayed on a commercial theater screen, e.g., as opposed to television-quality, which generally implies a quality insufficient for display on a commercial theater screen. Based on the foregoing remarks, withdrawal of this objection is respectfully requested.

Claims 1, 5-6, 9, 11-12, 15-16 and 19 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent 6,795,092 (Nagai) in view of U.S. Patent Application Publication Number 2003/0023970 (Panabaker); and claims 7-8, 17-18, 21 and 23 stand rejected under § 103(a) over Nagai in view of Panabaker and RFC 1321 (Rivest). Withdrawal of these rejections is respectfully requested for the following reasons.

As previously noted, the present invention concerns systems, methods and techniques for delivering and receiving programming content, such as movies, video games and other types of computer software. Generally speaking, programming content, divided into chunk files, together with a manifest file for describing how to execute and/or play the various individual chunks, is

sent or received using a combination of electronic transmission and delivery on a physical storage medium. Such multi-path delivery can be usefully employed, e.g., in connection with piracy prevention and other security applications, as well as for providing backup transmission redundancy.

Thus, independent claim 1 is directed to a method for use in delivering programming content. Initially, programming content is divided into smaller chunks of data, the programming content including (i) a software program and/or (ii) content for playing on an electronic device. A chunk file is created for each chunk of data and a manifest file is generated, the manifest file including information describing how to execute and/or play the chunks of data. Finally, the created chunk files and the generated manifest file are transmitted to a remote location, with at least one of the files being transmitted electronically and at least one of the files being transmitted on a physical storage medium.

The foregoing combination of features is not disclosed or suggested by the applied art. For example, no permissible combination of Nagai and Panabaker would have disclosed or suggested at least the feature of transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, where at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium.

In this regard, Nagai has been studied in detail, particularly the portions thereof cited by the Examiner. As best understood by Applicants, Nagai appears only to disclose the creation and provision of a digest for a multimedia document. By providing such a digest, the end user can determine whether any portions of the document are relevant to his or her needs, without the necessity of accessing or transmitting the entire document, thereby reducing access or

transmission times. See, e.g., the Abstract and column 1 lines 1-50 of Nagai. In order to create the digest, Nagai selects and includes within the digest only the most representative scenes. See, e.g., column 5 lines 8-21 of Nagai.

It is first asserted in the Office Action that column 5 lines 34-57 and Figure 4 of Nagai discloses the presently claimed features of: dividing programming content into smaller chunks of data, where the programming content comprises at least one of (i) a software program or (ii) content for playing on an electronic device; creating a chunk file for each chunk of data, the chunk file including the chunk of data; and generating a manifest file that includes information describing how to execute or play the chunks of data. Specifically, it appears that the Office Action is asserting that the presently recited “programming content” reads on Nagai’s overall multimedia document, the presently recited “chunk files” read on Nagai’s individual media files (shown in Nagai’s Figure 4), the presently recited “chunks” read on the media data within those files, and the presently recited “manifest file” reads on Nagai’s reproduction control information (shown in Nagai’s Figure 4).

The Office Action then asserts that column 5, lines 24-33 of Nagai discloses the transmission of the recited “chunk files” and the recited “manifest file”. However, that portion of Nagai only appears to discuss the structure of an ordinary general-purpose computer, as illustrated in Nagai’s Figure 3. It says nothing at all about transmitting Nagai’s individual media files together with its reproduction control information to any remote location (using the mapping asserted in the Office Action).

Moreover, it appears that the main purposes of Nagai’s technique is to *avoid* having to send an entire multimedia document to a remote location, thereby also avoiding the large bandwidth consumption that transmitting the entire multimedia document necessarily would

entail. Rather, as discussed above, in Nagai's approach only a digest of a specified multimedia document is transmitted to the remote location. After reviewing the digest information, the user then requests only those segments of the multimedia document that the user believes will be in most relevant.

In addition, the Office Action acknowledges that Nagai does not teach the present invention's feature that, when transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium. To make up for this deficiency, the Office Action cites Panabaker.

Specifically, the Office Action asserts that Panabaker, "teaches a method of distributing programming content which includes a manifest file, in which some files are transmitted electronically and some files are transmitted on a physical medium (paragraph 59)." The Office Action then concludes that it would have been obvious to combine Panabaker with Nagai in order to achieve the present invention, as recited in independent claim 1, "because sending a manifest file electronically allows quicker updates of presentation data."

At the outset, it is noted that Panabaker discusses a system in which, in addition to standard audio/video programming, enhanced programming content also is made available to the end user. The enhanced programming content is presented in accordance with a defined schema and supplements the standard audio/video programming, typically providing for some interactive capabilities. See, e.g., paragraph 46 of Panabaker. In the principal embodiment discussed in Panabaker, an encoder module 212 combines the original audio/video programming with the enhanced programming content (as interpreted from the defined schema) for transmission to the end user. See, e.g., paragraph 55 of Panabaker.

In addition, two somewhat related alternate embodiments of Panabaker's technique are described (in paragraph 59 of Panabaker). In the first, the encoder module 212 is omitted and the end user's receiver itself inserts the enhanced programming content into the audio/video programming. As noted in paragraph 59 of Panabaker, such an embodiment might be used, e.g., where the audio/video programming and the enhanced content are stored together on a CD or DVD.

In the second related embodiment described in paragraph 59, "the enhanced programming experience can be delivered to receiver module 216a-216n separately from the audio/video programming." That is, the enhanced programming information (including both content and schema) is delivered in a different manner than the underlying audio/video programming (i.e., through a different path). For example, the enhanced programming information may be delivered by e-mail or upon a physical storage device, while the underlying audio/video programming is broadcast.

Both of the alternate embodiments described in Panabaker's paragraph 59 also are significantly different than what is recited in independent claim 1. As noted above, independent claim 1 recites the feature of transmitting chunk files that make up programming content and a manifest file that describes how to execute and/or play the chunks of data, where at least one of the files is transmitted electronically and at least one of the files is transmitted on a physical storage medium.

The only feature of Panabaker which even arguably corresponds to the presently recited manifest file is Panabaker's schema file. However, it appears that in Panabaker either the schema file never is delivered to the end user (i.e., because it is used only by encoder 212) or the schema file is delivered in the same manner as the enhanced programming content to which it

pertains. Although Panabaker discloses that the enhanced programming information (both content and schema) may be delivered in a different manner than the underlying audio/video programming, this feature is clearly different than the features recited in independent claim 1.

In short, Panabaker at most discloses that additional, supplemental programming content may be delivered in a different manner than the underlying programming content. It says nothing at all about dividing any programming content into different chunks and then transmitting those chunks, and/or a manifest file describing how to execute or play the chunks, in different ways. As a result, Panabaker clearly does not say anything about transmitting such files both electronically and on a physical storage medium, as presently recited.

Lacking the above-referenced features of the invention, no permissible combination of Nagai and Panabaker could have suggested the present invention as recited in independent claim 1. In this regard, it is noted that MPEP § 2142 requires that in order to establish a *prima facie* case of obviousness, the Examiner must cite prior art references that teach or suggest all of the claim limitations.

In addition, Nagai and Panabaker are directed to significantly different problems. As noted above, Nagai concerns the creation and delivery of a digest for the purpose of providing an overview of the content within a multimedia document. Panabaker concerns the delivery of enhanced programming content, primarily for the purpose of providing an interactive experience to the end user. There is nothing in either reference that would have motivated one of ordinary skill in the art to combine the teachings of these two distinct references in any manner whatsoever, much less in any way that would have resulted in the present invention.

The Office Action asserts that it would have been obvious to combine the references “because sending a manifest file electronically allows quicker updates of presentation data.”

First, it is not clear that this statement is correct. Ordinarily, reading a file from a storage medium is much faster than receiving it across a network, such as the Internet. Second, even if this statement is true, it is unclear how such an observation would have motivated one to combine any relevant feature of Panabaker with the features of Nagai in order to achieve the present invention. That is, such an observation only would have motivated one to send all data electronically, not to divide it up as presently recited.

Responding to similar comments made previously by Applicants, the Office Action asserts that Panabaker “clearly shows that the transfer of data through an electronic medium such as email or through a physical medium such as a DVD, CD is arbitrary and thus obvious.” However, that assertion says nothing at all about the present invention’s approach in which programming content is divided up into chunks and different data files pertaining to those chunks are transmitted in different ways.

For all of the reasons set forth above, independent claim 1 is believed to be allowable over the applied art. However, if the present rejection is maintained, additional detail regarding the presence of the recited claim features in the applied art, as well as the asserted motivation to combine Nagai and Panabaker, is respectfully requested.

Independent claims 11, 29 and 33 are directed to a method and apparatuses for use in receiving programming content, in which plural chunk files and a manifest file are received. The chunk files include chunks of data that together make up programming content, the programming content including (i) a software program and/or (ii) content for playing on an electronic device. The manifest file includes information describing how to execute and/or play the chunks of data. The chunks of data are stored and are executed and/or played according to the information in the

manifest file. At least one of the received chunk files is received electronically and at least one of the received chunk files is received on a physical storage medium.

For example, the applied art is not seen to disclose or to suggest at least the features of receiving programming content that has been divided into chunk files, together with a manifest file that includes information describing how to execute and/or play the chunks of data, where at least one of the received chunk files is received electronically and at least one of the received chunk files is received on a physical storage medium. The Office Action rejects these claims on the same grounds that it uses in rejecting independent claim 1.

Accordingly, for similar reasons to those set forth above, independent claims 11, 29 and 33 also are believed to be allowable over the applied art.

The other rejected claims in this application depend from the independent claims discussed above, and are therefore believed to be allowable for at least the same reasons. Because each dependent claim also defines an additional aspect of the invention, however, the individual reconsideration of each on its own merits is respectfully requested.

In order to sufficiently distinguish Applicants' invention from the applied art, the foregoing remarks emphasize several of the differences between the applied art and Applicants' invention. However, no attempt has been made to categorize each novel and unobvious difference. Applicants' invention comprises all of the elements and all of the interrelationships between those elements recited in the claims. It is believed that for each claim the combination of such elements and interrelationships is not disclosed, taught or suggested by the applied art. It is therefore believed that all claims in the application are fully in condition for allowance, and an indication to that effect is respectfully requested.

Serial No. 09/784,843

If there are any fees due in connection with the filing of this paper that have not been accounted for in this paper or the accompanying papers, please charge the fees to our Deposit Account No. 502490. If an extension of time under 37 C.F.R. 1.136 is required for the filing of this paper and is not accounted for in this paper or the accompanying papers, such an extension is requested and the fee (or any underpayment thereof) should also be charged to our Deposit Account.

Dated: April 27, 2007

Respectfully submitted,
JOSEPH G. SWAN, P.C.

JOSEPH G. SWAN,
A PROFESSIONAL CORPORATION
1334 Parkview Avenue , Suite 100
Manhattan Beach, California 90266
Telephone: (310) 372-8624
Facsimile: (310) 356-3845

By /Joseph G. Swan/
Joseph G. Swan
Registration No. 41,338